

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

WALTER C. MIDDLETON,)	
)	
Plaintiff,)	
)	
v.)	Case No. 15 C 9543
)	
TOM DART , Sheriff of Cook County, et al.,)	
)	
Defendants.)	

MEMORANDUM ORDER

Trial bar member J. Patrick Herald ("Herald"), who has recently been serving ably as plaintiff's designated counsel in this action, which was initially brought pro se by prisoner Walter Middleton ("Middleton"), after the lawyer originally designated to fill that role had to step out of the case because of a conflict of interest, has also graciously agreed to act on Middleton's behalf in a later lawsuit (Case No. 16 C 296) that Middleton had also initiated pro se. To minimize duplicative proceedings in the handling of Middleton's two related claims, attorney Herald has sensibly opted to file a First Amended Complaint in this action that embodies both of those claims, thus enabling this Court to dismiss the 2016 lawsuit without prejudice.

Attorney Herald has now provided this Court with a printout of transactions in Middleton's trust fund account at the Cook County Department of Corrections ("County Jail") from the August 20, 2015 date when he was taken into custody there through February 23, 2016. Under the unusual circumstances posed by Middleton's claims, this Court has made the calculations called for by 28 U.S.C. § 1915 ("Section 1915") by treating his litigation as a single lawsuit with a "mailbox rule" filing date (see Houston v. Lack, 487 U.S. 266 (1988)) a few days

before January 8, 2016, the day when Middleton's lawsuit papers in Case No. 16 C 296 arrived in the Clerk's Office.

Because Middleton had not been in custody at the County Jail for the entire six-month period referred to in Section 1915(a)(2) when that "filing" date arrived, this Court has determined that the average monthly deposit to Middleton's account during the 4.6-month period preceding that date (see Section 1915(b)(1)(A)) was \$311.12, 20% of which (id.) is \$62.22. Accordingly Middleton is assessed an initial partial filing fee of \$62.22 plus 20% of all deposits to his account from January 8, 2016 through February 29, 2016, and the County Jail trust fund officer is ordered to collect that total amount from Middleton's trust fund account there and to pay it directly to the Clerk of Court ("Clerk"):

Office of the Clerk
United States District Court
219 South Dearborn Street
Chicago IL 60604

Attention: Fiscal Department.

After such payment the trust fund officer at the County Jail (or at any other correctional facility where Middleton may hereafter be confined) is authorized to collect monthly payments from his trust fund account in an amount equal to 20% of the preceding month's income credited to the account. Monthly payments collected from the trust fund account shall be forwarded to the Clerk each time the amount in the account exceeds \$10 until the full \$350 filing fee is paid. Both the initial payment and all future payments shall clearly identify Middleton's name and the 15 C 9543 case number assigned to this action. To implement these requirements, the Clerk

shall send a copy of this order to the County Jail trust fund officer.

A handwritten signature in black ink, reading "Milton I. Shadur". The signature is written in a cursive style with a large, stylized "M" and "S".

Milton I. Shadur
Senior United States District Judge

Date: March 1, 2016